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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,115	11/07/2001	Andreas Buos	085874-0381	4653

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EXAMINER

DABNEY, PHYLESHA LARVINIA

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,115

Applicant(s)

BUOS ET AL.

Examiner

Phylesha L. Dabney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/24/05.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9, 14-16, 18, 23-25 and 31-45 is/are rejected.
7) ☒ Claim(s) 10-13, 17, 19-22 and 26-30 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to the response filed on 24 January 2005 in which claims **1-45** are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **1-30** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Since the massive member includes the coil and magnet assemblies, it is not understood how the massive member and the motor (see claim 3) are different.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1-4, 14-15, 18, and 23-25** are rejected under 35 U.S.C. 102(b) as being anticipated by Bachmann et al (U.S. Patent No. 6,622,817).

Regarding claims 1-4, 15, 18, and 23-25, Bachmann teaches an inertial exciter for an acoustic radiator (11.1, 11.2), the exciter comprising: a massive member (22-24, 24.1, 26-27); a

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coupler (18) adapted for attachment to the acoustic radiator and adapted for relative movement with respect to the massive member; a motor (22-24, 24.1, 26-27); for effecting said relative movement of the coupler and the massive member; and a suspension (25.1, 25.2) for supporting the massive member relative to the coupler; wherein the suspension acts in a plane generally passing through the centre of mass of the massive member, thereby reducing any moment acting on the suspension.

Regarding claim 14, Bachmann teaches the inertial exciter according to claim 4, wherein the suspension (25.1, 25.2) is attached to the coupler towards the periphery of the exciter to provide restoring forces to control residual unwanted asymmetric movement.

Claims 31-34, 38-39, 41-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Bachmann et al (U.S. Patent No. 6,622,817).

Regarding claims 31, Yanagishima teaches a loudspeaker exciter assembly comprising: a base plate (5010) for attachment to an acoustic radiator (5009) in a non-repeatedly engageable manner; and an exciter (501-510, 5011) attached to said base plate in a repeatedly engageable manner.

Regarding claim 32, Yanagishima teaches the loudspeaker exciter assembly according to claim 31, wherein said exciter (501-510, 5011) is an inertial exciter.

Regarding claims 33-34, Yanagishima teaches said exciter (501-510, 5011) is engageable

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with said base plate via a releasable connection (screw attached to support 5012 of fig. 6, which is similar to fig. 3).

Regarding claim 38, Yanagishima teaches the bending wave loudspeaker comprising an acoustic radiator (5009); a base plate (5010) for attachment to an acoustic radiator in a non-repeatedly engageable manner; and an exciter (501-510, 5011) attached to said base plate in a repeatedly engageable manner.

Regarding claim 39, Yanagishima teaches the bending wave loudspeaker according to claim 38, wherein the base plate (5010) is integral with the acoustic radiator.

Regarding claim 41, Yanagishima teaches the loudspeaker exciter assembly according to claim 38, wherein said exciter (501-510, 5011) is an inertial exciter.

Regarding claims 42-43, Yanagishima teaches the loudspeaker exciter assembly according to claim 38 or claim 41, wherein said exciter (501-510, 5011) is engageable with said base plate (5010) via a releasable connection (screw attached to support 5012 of fig. 6, which is similar to fig. 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **5-8, and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bachmann et al.

Regarding claims 5-8, and 16, Bachmann does not teach the spider formed of elastic/polymeric material instead of corrugated foil of metal or an arm type cantilever. However, the examiner takes official notice that it is known to construct spiders of various materials and structures including corrugated, with arms, metal, cloth, and/or polymeric material for beneficial affecting the frequency response.

Claims **35-37, 40, and 44-45** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagishima et al in view of the admitted Prior Art (office action paper dated 8/25/05).

Regarding claims 35-36 and 42-45, Yanagishima does not specifically teach the loudspeaker exciter assembly comprising a locking device for locking the threaded connection.

However, the admitted prior art teaches that it was known to use a screw nut/support member on the end of a screw for tightening and securely joining components together. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a screw nut/support member to securely join components and prevent distortion.

Regarding claims 37 and 40, Yanagishima does not specifically teaches the loudspeaker exciter of claim 31, further comprising adhesive for attaching the base plate to an acoustic radiator in a non-repeatedly engageable manner.

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However, the admitted prior art teaches that it was known to use attachment means such as glues, to secure plates to radiators and minimized distortion from movement. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use any means including non-repeatably engageable adhesive glue to secure the base plate to the radiator of Yanagishima for the reason stated above.

Allowable Subject Matter

Claims **10-13, 17, 19-22, 26-30** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments, with respect to the rejection(s) of claim(s) **1-30** have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bachmann et al (U.S. Patent No. 6,622,817).

Applicant's arguments, with respect to the rejection(s) of claim(s) **31-45** have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yanagishima et al (U.S. Patent No. 4,514,599).

Furthermore, the MPEP (2144.03) states that if the Applicant did not traverse the Examiner's assertion of official notice or Applicant's traverse is not adequate, the Examiner

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should clearly indicate in the next office action that the common knowledge or well-known in the art statement is taken to be admitted prior art. The Applicant failed to adequately traverse the Examiner's assertion of official notice, because the Applicant did not specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241. Therefore, the office notice statement are considered admitted prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 9, 2006

PLD 

SUHAN NI
PRIMARY EXAMINER